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Inland Transport Committee

Working Party on the Transport of Dangerous Goods

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Item 6 (b) of the provisional agenda
Proposals for amendments to Annexes A and B of ADR: miscellaneous proposals

Amendments to the carrier obligations - sub-section 1.4.2.2

Transmitted by the Government of Romania[1]

Summary

Executive summary:	Clarify carrier obligations in 1.4.2.2.
Action to be taken:	To improve the carrier obligations stipulated in 1.4.2.2.
Reference documents:	Informal document INF.7 of the ninety-seventh session of the Working Party, and paragraph 43 of the report of the ninety-seventh session of ECE/TRANS/WP.15/226.

Introduction

1. The Romanian delegation analysed the requirements of 1.4.2.2 *Carrier* and is of the opinion that some aspects in the text could be improved.

[1] The present document is submitted in accordance with paragraph 1(c) of the terms of reference of the Working Party, as contained in document ECE/TRANS/WP.15/190/Add.1, which provides a mandate to "develop and update the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)".

2. During the debate of the informal document INF.7 at the last session, some of the delegations, the secretariat and the Chairman of the Working Party expressed several points of view which were integrated below.

3. The justification of the proposal was supplemented with relevant aspects regarding the enforcement procedures and regulations.

4. Our first proposal suggests a rewording of the current paragraph (g) in 1.4.2.2.1. The amendments proposed suggest replacing the terms "*written instructions*" and "*driver*" in paragraph (g) with "*ADR*" and "*vehicle crew*". The editorial amendment is consistent with the current text of section 5.4.3 because there is special equipment for each member of the vehicle crew prescribed in section 8.1.5, which is mentioned also on the last page of the instructions in writing.

5. Further on, 1.4.2.2.1 introduces the obligations of the carrier under the wording "*the carrier shall in particular*:". This binding text is essential for the description of the obligation of the carrier and we would like to propose an amendment for an increased visibility of the obligation of the carrier to provide instructions in writing to the vehicle crew. This second proposal is harmonised with the current text of RID and was supported by the majority of the delegates present at the previous session of the Working Group as mentioned in its report at paragraph 43.

6. Comparing the obligation of the carrier and of the consignor as stipulated in 1.4.2.2.1 (b) and 1.4.2.1.1 (b), we find out that they are correlated:

- 1.4.2.2.1 (b) asks the carrier to "ascertain that (...) the prescribed documentation is <u>on board of the transport unit</u>", but it is not clear enough if the instructions in writing are included in the prescribed documentation;
- 1.4.2.1.1 (b) asks the consignor to "Furnish the carrier with information and data (...), the required transport documents and accompanying documents (...);".

There are also some other obligations correlated between participants.

7. This requirement from 1.4.2.2.1 (b) probably refers to any other document than the instructions in writing. (e.g. transport documents, authorisations, approvals, notifications, certificates, etc (according to ADR 2007)). This is also the logic of the text because the instructions in writing have another regime and purpose than any other document listed before and present on board of the vehicle for the carriage of dangerous goods. This was clearly highlighted in 2009, by the new instructions which are no longer connected to a certain substance or UN number.

8. According to paragraph 1.4.2.2.6 in RID, "The carrier shall provide the driver with the instructions in writing as prescribed in <u>5.4.3</u>".

9. However, we think that, in the logic of the agreement, as Chapter 1.4 is meant to stipulate the safety obligations of the participants, 1.4.2.2 should stipulate clearly the obligation of the carrier to provide the instructions in writing to the vehicle crew also because "*the members can choose as instructions are given in the appropriate language for each one of them*". This is a main carrier's obligation and should be stated clearly in 1.4.2.2, also.

Proposal 1

10. The text of the paragraph (g) in 1.4.2.2.1 should be amended to read as follows (stricken out text is to be replaced and new text is underlined):

"ascertain that the equipment prescribed in ADR for the ~~driver~~ vehicle crew is on board the vehicle."

Proposal 2

11. Insert a new paragraph 1.4.2.2.6, as follows:

"1.4.2.2.6 The carrier shall provide the vehicle crew with the instructions in writing as prescribed in ADR."

Justification

12. Safety: Clear text improves the transport safety.

13. Feasibility: Carriers already comply with this obligation. The proposed text clarifies an existent obligation and facilitates the activity of the enforcement bodies and the vehicle crews.

14. There are no disadvantages envisaged.

15. There is no transitional period required.

16. Enforceability: The presence of a separate obligation for the carrier in this regard would facilitate the enforceability of ADR. The absence of the instructions in writing is sanctioned, e.g. in the Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road. The checklist in Annex I of the Directive includes the instructions in writing in the documents to be checked if they are present onboard (point 14), and the classification of infringements in Annex II includes the absence of the instruction in writing as a Risk category II infringements.